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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,247	07/23/2001	ScotLund Stivers		4799

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Scotlund Stivers  
c/o H. Keith Dubois  
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West Branch, MI 48661

EXAMINER

DUONG, THANH P

ART UNIT

PAPER NUMBER

1764

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/911,247

Applicant(s)

STIVERS, SCOTLUND

Examiner

Tom P. Duong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 3-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,10 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Applicant's remarks and amendments filed on January 13, 2006 have been carefully considered. Claims 1-2 and 10-11 have been amended. Claims 1-11 are pending in this application.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the abstract failed to include a concise statement of the technical disclosure of the invention. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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1. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the recitation of "the use of a hot fixed bed of carbon based..."; in claim 2, the recitation of "the addition of monovalent alkali metal..."; in claim 10, the recitation of "The use of turbines, air motors, gas motors,..."; and in claim 11, the recitation of "the use of fixed bed gas producers and fixed bed water..." are indefinite and inaccurate. In the method/or process claim, there should be a series of active steps. Each defined active step must be interrelated with previous defined active step(s). Claims 1, 2, and 10-11 merely recite functional language to achieve desirable result(s) but does not set forth any steps involved in the method/process. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually involved. See MPEP 2173.05 (q).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Fernandes (3,920,417). Fernandes (best understood by examiner) discloses the use of

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a fixed bed gasifier to produce a hot gas from decomposing any hydrocarbon, refuse, lignite, coal, liquid waste, manure, and farm waste (Abstract).

3. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Barclay et al. (4,017,271) or Muenger et al. (4,193,259). Both Barclay (Fig. 3) and Muenger (Fig. 1) disclose the turbine recover the energy from the hot gases generated from the gasifier before the hot gases are fed to the condenser and/or cooler.

4. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Mastral Lamarca et al. (5,936,134). Mastral Lamarca (best understood by examiner) discloses the a fixed bed gasifier (Col. 3, lines 17-20) to produce a hot gas from decomposing any waste tires rubber wastes, coal, and plastic waste, paper, and rubber (Col. 1, lines 15-24).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett et al. (4,057,398) in view of Kubat et al. (4,797,135) or Brown (4,319, 885). Bennett et al. discloses the mixing of potassium and/or sodium with pulverized coal prior to combustion to in order to reduce the fusion of coal ash. Bennett is silent with respect to the use of coal ash as a fertilizer (Col. 2, lines 27-31). Kubat teaches the use of alkaline ashes as a fertilizer to treat acidic soil. Brown also teaches the ash from the burning coal fibrous material is used for product such as fertilizer (Col. 5, lines 20-48). Thus, it would have been obvious in view of Kubat or Brown to one having ordinary skill in the art to provide the step of utilizing ash as a fertilizer as taught either by Kubat or Brown in the Bennett process in order to treat the acidic soil.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-2 and 10-11 have been considered but are moot in view of the new ground(s) of rejection. The amended claims 1-2 and 10-11 necessitate new grounds of rejections.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom P. Duong whose telephone number is (571) 272-2794. The examiner can normally be reached on 8:00AM - 4:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tom Duong  
March 24, 2006

*TD*

  
Glenn Caidarola  
Supervisory Patent Examiner  
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